

TREATIES

What is a treaty?

A treaty is a legally binding contract and solemn agreement between two separate, distinct political powers establishing such elements as peace, trade and alliance. Indian nations negotiated treaties with the United States and other European powers, just as they had with each other long before white contact. Treaties were viewed as covenants which could not be broken unless by mutual consent. Indian tribes were recognized as independent, sovereign nations, and treaties made with them were negotiated between equals as with any foreign nation.

What is the purpose of a treaty?

The purpose of treaties with Indian tribes was not to give rights to Indians, as these were rights they already possessed as sovereign nations, but to remove from them certain rights. Rights were granted from Indian tribes to the United States. Through treaties, Indian nations ceded certain lands and rights to the United States and reserved certain lands (reservations) and rights for themselves. Treaties did not affect the self-governing powers of Indian nations. Rights that were not expressly granted away by tribes in a treaty, or later taken away by a federal statute, were reserved by that tribe. These rights do not diminish with the passage of time or changes in technology.

How many treaties were negotiated between the United States and Indian nations?

Approximately 370 treaties were signed by all parties and ratified by Congress, and roughly an equal number were signed but not ratified. Treaties may be divided into several stages: 1600-1776 Colonial Treaties, 1778-1810 Treaties of Alliance, 1784-1817 Treaties of Land Cession, 1817-1846 Treaties of Removal (represent the majority of the treaties), 1846-1864 Reservation Treaties, 1865-1868 Great Peace Commission treaties. In 1871 Congress enacted legislation ending treaty-making. After 1871, instead of treaties, the federal government enacted agreements, statutes and executive orders in dealing with tribal governments.

In Summary

Indian nations ceded over two billion acres of land in exchange for the United States' guarantee to respect tribes' sovereignty over the lands they reserved for themselves and future generations. Because tribes often had to give up their source of livelihood, many treaties provided for monetary payments or services such as education, health care, food, etc. In return for the vast amounts of land, the federal government agreed to protect the rights and lands tribes retained (from non-Indians), and provide services to meet the needs of Indian communities.